

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,

Plaintiff,

-against-

DEREK JONES,

Defendant.

No. 21-CR-59 (LAP)

ORDER

LORETTA A. PRESKA, Senior United States District Judge:

Before the Court are the parties' submissions addressing the need for a Fatico hearing (dkt. nos. 152, 155, and 163) and the Government's disclosure obligations under Brady v. Maryland, 373 U.S. 83 (1963) and Rule 5(f) of the Federal Rules of Criminal Procedure (dkt. nos. 159 and 162).

As to the Fatico issue, the Court has determined that a Fatico hearing is not required to adjudicate the Defendant's objections. Additionally, the Government has informed the Court that it will not pursue a sentence enhancement for obstruction of justice. Accordingly, the Defendant's request for a Fatico hearing is denied.

Regarding the Brady issue, the Court finds that the Government has not violated its Brady obligations. The material that the Government allegedly failed to produce had already been produced and/or was not exculpatory as to the Defendant's guilt

or punishment. The Defendant's motion for the immediate production of all 3500 material is denied as moot.

Sentencing shall proceed as scheduled. The parties shall appear on December 13, 2022, at 11:00 AM in Courtroom 12A. The dial-in for the proceedings is (877) 402-9753; access code: 6545179.

Upon the application of Derek Jones, by his attorney, LOUIS V. FASULO, Esq. of New York, pursuant to 18 U.S.C. § 3006A, and upon a finding of indigence and that the services are necessary, the Court authorizes defense counsel to use CJA funds to cover the cost of Mr. Jones's travel between Los Angeles, California and New York, New York in advance of his sentencing hearing at 11 am on December 13, 2022, as well as Mr. Jones's return trip to Los Angeles, California, after his sentencing hearing is completed. Mr. Jones's flight to New York shall arrive no later than December 13, 2022. Defense counsel is also authorized to use CJA funds to cover the cost of Mr. Jones's lodging in New York, New York should the same be needed.

SO ORDERED.

Dated: December 9, 2022
New York, New York

A handwritten signature in black ink, reading "Loretta A. Preska". The signature is fluid and cursive, with the first name "Loretta" being more prominent and the last name "Preska" following in a similar style. The signature is written over a horizontal line.

LORETTA A. PRESKA
Senior United States District Judge